

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

COMCAST CORPORATION, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 1:24-cv-1401 (PTG/IDD)
	)	
U.S. DEPARTMENT OF LABOR, <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

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**DEFENDANTS' NOTICE OF CHANGE IN POSITION**

Defendants respectfully submit this Notice to inform the Court that the Acting Solicitor General has decided that the multiple layers of removal restrictions for administrative law judges in 5 U.S.C. § 7521 do not comport with the separation of powers and Article II and that the Department of Justice will no longer defend them in litigation. Accordingly, the Department of Justice will not continue to defend Section 7521 in this action. *See* Dkt. No. 24 (“Defs.’ Mem.”) at 24-30.

Defendants nonetheless maintain that this Court should grant their motion and dismiss the Complaint in its entirety. Defendants continue to argue that Comcast’s removal claim fails at the threshold because Comcast must show not only “the plausibility of a separation of powers violation based on an allegedly unconstitutional removal restriction,” but also “that it has incurred a compensable injury because of the allegedly unlawful removal restrictions.” Dkt. 24 at 21-22 (citing *Keo-R Contractors, LLC v. Keene*, 86 F.4th 135, 149 (4th Cir. 2023); *Collins v. Yellen*, 594 U.S. 220, 257-59 (2021)). Defendants also continue to argue that even if Comcast were to prevail on its removal claim, it would not be entitled to injunctive relief, as “any judgment on the constitutionality of the removal provision does not alter the course of any aspect of these underlying administrative proceedings,” since “[b]y *not* challenging the validity of ALJ Farley’s appointment, Comcast concedes that his actions

are lawful.” *Id.* at 24. Accordingly, as to the removal claim, this Court should at a minimum dismiss Comcast’s request for injunctive relief that would not be obtainable upon final resolution of the merits. *Id.*; *Collins v. Yellen*, 594 U.S. at 257-58.

Dated: February 25, 2025

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